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Chairman:

Mrs. FLORES

(Uruguay)

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AGENDA ITEM 152: QUESTION OF RESPONSIBILITY FOR ATTACKS ON UNITED NATIONS AND ASSOCIATED PERSONNEL AND MEASURES TO ENSURE THAT THOSE RESPONSIBLE FOR SUCH ATTACKS ARE BROUGHT TO JUSTICE (continued)

ORGANIZATION OF WORK

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The meeting was called to order at 10.30 a.m.

AGENDA ITEM 152: QUESTION OF RESPONSIBILITY FOR ATTACKS ON UNITED NATIONS AND ASSOCIATED PERSONNEL AND MEASURES TO ENSURE THAT THOSE RESPONSIBLE FOR SUCH ATTACKS ARE BROUGHT TO JUSTICE (continued) (A/48/144; A/C.6/48/L.2 and L.3)

1. Mr. KHAN (Pakistan) said that the United Nations peace-keeping activities had, over the past few years, grown rapidly in number, nature and size. United Nations peace-keepers were increasingly being deployed in hostile conditions and conflict situations, which exposed them to great physical risk. In his report on the security of United Nations operations (A/48/349), the Secretary-General indicated that during the current year, the casualty rate for United Nations peace-keeping personnel had been approximately one every two weeks, which was twice the rate in 1992. The sharp increase in attacks against United Nations personnel underscored the need for the international community to deal effectively and urgently with that serious problem.

2. As a troop-contributing country whose soldiers had laid down their lives while on peace-keeping duty, Pakistan condemned the violence directed against United Nations personnel.

3. His delegation was pleased to note the Secretary-General's intention to introduce measures to ensure that security matters would become an integral part of planning for new operations and that both short-term and long-term strategies need to be considered to enhance the safety of personnel involved in peace-keeping and other operations. Such measures should relate to both physical safety as well as legal protection.

4. The Committee was uniquely qualified to make a contribution with regard to legal protection. Pakistan agreed that attacks on United Nations peace-keeping personnel must be considered criminal acts and that those who committed or ordered such acts must be prosecuted and punished. Parties to a conflict who were unwilling to discharge their responsibilities in that regard should be held responsible under international law.

5. His delegation welcomed the proposals made by New Zealand and Ukraine (A/C.6/48/L.2 and L.3). Although the scope and nature of the two proposals were different, they shared the same purpose and merited serious consideration by the Committee. His delegation was prepared to participate in discussions on the two draft resolutions and, in that regard, supported the establishment of a working group of the Sixth Committee as proposed by New Zealand.

6. Mr. JAAFAR (Malaysia) said that his delegation welcomed the proposal by New Zealand for a draft convention on responsibility for attacks on United Nations personnel (A/C.6/48/L.2) because it felt that that was a timely initiative, given the United Nations increasing role in peace-keeping and the number of peace-keeping operations currently being undertaken in many parts of the world.

7. The dangers that those troops were exposed to were obvious and had been well publicized. Many of the troops had lost their lives carrying out their tasks and some had been the deliberate targets of groups that were hostile to United Nations peace-keeping efforts. In his report "An Agenda for Peace", the

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(Mr. Jaafar, Malaysia)

Secretary-General estimated that 528,000 military, police and civilian personnel had served under the flag of the United Nations until January 1992. Over 800 of them from 43 countries had died in the service of the Organization. As everyone knew, many more had died or been seriously injured between January 1992 and October 1993. That was an unacceptable state of affairs and the international community should not allow it to continue unchecked. The persons responsible for those criminal acts must be made to answer for their crimes.

8. The proposed convention, which, of course, would only complement other efforts undertaken, would fill a gap in international law. Existing international conventions such as the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, the International Convention against the Taking of Hostages or even the Geneva Conventions did not specifically cover United Nations peace-keeping troops.

9. As a troop-contributing country which was currently involved in a number of United Nations peace-keeping and field missions, Malaysia considered that initiative particularly relevant and looked forward to working closely with all delegations to promote the protection and safety of all United Nations personnel engaged in such activities.

10. Some delegations had expressed the opinion that the elaboration of a multilateral convention would not lead to speedy results. Although he agreed with that observation, he felt that, if the United Nations role in peace-keeping and peace enforcement was to be a permanent feature of its operations, the instrument would be necessary not only for the protection of personnel but also to deter those seeking to challenge the will of the international community through criminal acts.

11. With regard to the specific provisions of the draft text submitted by New Zealand (A/C.6/48/L.2), Malaysia agreed that the scope of the draft convention should be extended to cover all United Nations personnel. He suggested, however, that agreements between the humanitarian organizations or agencies referred to in article 2 (c) of the draft should have the prior approval of the Security Council. Malaysia also welcomed the provisions concerning extradition of alleged offenders and the granting of jurisdiction to States against whose nationals crimes were committed. That was how he interpreted the relevant provision in article 6, paragraph 1 (c) of the draft, which should be worded more clearly and unambiguously. That important provision, however, might not be applicable in situations where there was a total collapse of civil authority and the judicial machinery, as in the case of Somalia. An appropriate procedure might have to be devised to deal with such situation.

12. His delegation supported the proposal to establish a working group to consider the draft convention in detail. The working group could consider the proposals by New Zealand and Ukraine together and also explore the possibility of combining the two texts, if that was agreeable to their sponsors.

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13. Mr. AREVALO (Chile) said that, as a country that had participated in various peace-keeping operations, Chile attached great importance to item 152, which related to a timely subject requiring urgent attention.

14. Owing to the increase in such operations, an ever larger number of people had found themselves in complex, difficult situations that endangered their safety. The Organization, under whose mandate they operated, should provide them with maximum protection. As the Secretary-General's report on the security of United Nations operations (A/48/349) indicated, the number of casualties from assaults against United Nations personnel had increased to an extent unacceptable to the international community.

15. His delegation, convinced of the need for a convention the purpose of which was to bring to justice persons responsible for those illegal actions, applauded the proposal formulated by New Zealand (A/C.6/48/L.2), which provided an important basis for a full study of the question. It shared the concern expressed by other delegations with regard to a possible delay in the entry into force of the resulting legal instrument (which would essentially codify existing laws), because such delay could to some extent vitiate those precedents and could transmit a misleading signal as to the resolve and determination of the international community on that issue. Chile none the less believed that that situation was avoidable.

16. Given the peace-keeping role of United Nations and associated personnel, and the fact that they were permitted to wield their arms only in self-defence, attacks on them were serious crimes. Furthermore, those attacks not only harmed their immediate victims, but also indirectly harmed the Organization. No alleged offender should escape prosecution, and States should incorporate into their national legislation the criminal offence in question. The principle of universality of jurisdiction and the regime of extradition or prosecution were other essential elements that should be included in the convention.

17. Chile believed that the proposal of Ukraine (A/C.6/48/L.3) contained ideas that would prove interesting and useful in the Committee's eventual discussions on measures and procedures.

18. Mr. ROSENSTOCK (United States of America) said that his delegation agreed with the general view on the importance of item 152; there was indeed no more urgent item. The number of casualties among peace-keepers and people engaged in humanitarian assistance justified that conclusion.

19. The Secretary-General's report on the security of United Nations operations (A/48/349) precisely defined the problem. That report contained both short- and long-term recommendations. Progress had been made on the former. The Security Council had stressed that host countries must adopt appropriate measures to ensure the safety of all personnel engaged in operations authorized by it, and that status-of-forces agreements should come into force as soon as possible after the start of the corresponding operation.

20. The draft conventions submitted by New Zealand and Ukraine were welcome contributions that merited careful consideration by all States. In the view of the United States, a convention whose purpose was to enhance the protection of

(Mr. Rosenstock, United States)

personnel who participated in peace-keeping and related operations would be of considerable assistance to the Organization in its operations for the maintenance of international peace and security.

21. The convention proposed by New Zealand would apply to all operations established pursuant to a mandate approved by the Security Council, whether they were traditional observer missions or the type of operation recently undertaken in the conflict between Iraq and Kuwait and in Somalia.

22. The New Zealand proposal raised several questions. The relationship between that proposal and the existing laws of war, as well as the implications for persons engaged in hostilities associated with peace-keeping operations authorized by the Security Council, would, for example, have to be examined. Under the draft convention, activities which would not be considered illegal under the laws of war would be criminalized in cases where the United Nations was one of the combatants. That might be appropriate, particularly considering the fact that those operations were authorized by the organized international community. And yet, care must be taken to avoid unintentionally creating a juridical system that would undermine the protection of combatants during armed conflicts. Would, for example, those engaged in combat against United Nations forces consequently lose the incentive to comply with the rules of armed conflict or to exchange prisoners, as had occurred at the end of the Korean and Gulf wars?

23. Other points deserving of careful consideration were the following: the nature of the crimes to be included and their relationship to certain principles of international law and to certain aspects of international humanitarian law; the scope of jurisdiction and the interest of States affected by the illegal action; categories of United Nations operations and categories of persons covered by the convention; and the role of the Security Council or the United Nations in the implementation of such a convention.

24. The proposal of Ukraine, although broader and in some ways more ambitious, was not incompatible with that of New Zealand. In large measure, the subject matter it covered might be dealt with in the form of a declaration or resolution. Indeed, the Security Council had already moved in that direction. In that regard, it would be necessary to ponder the advisability of using a multilateral status-of-forces agreement rather than model agreements, and insisting that those agreements should be concluded with host countries at the earliest possible time. It might therefore be useful to hear the views of Secretariat officials who had participated in the negotiation and implementation of such agreements. The most appropriate forum for the consideration of some of the issues raised by the Ukrainian proposal might be the Special Committee on Peace-keeping Operations.

25. The United States endorsed the idea of immediately creating a working group of the Committee to begin the task of considering the New Zealand draft convention. That draft naturally did not cover all aspects of the problem, some of which would have to be considered by the Security Council, the Special Committee on Peace-keeping Operations, and any other body the Committee might decide to establish.

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26. Mrs. DASCALOPOULOU-LIVADA (Greece) welcomed the timely inclusion of agenda item 152 on the initiative of New Zealand. The problem of attacks on United Nations personnel had worsened because of the Organization's increasing use of its peace-keeping and peacemaking potential. The situation, which was a recurrent theme in the daily news, required urgent attention. Greece was very sensitive to the problem, whose tragic consequences had once again smitten the national conscience owing to the killing of a Greek sergeant a few days previously in Somalia.

27. The first question was to decide on a suitable approach. The conventional approach had been criticized as slow and potentially risky in so far as the support required for the entry into force of the proposed instrument might not be forthcoming, a situation which could undermine existing international law on the subject. Nor did the alternative approach, namely of compiling or codifying the existing body of international rules of law, seem entirely satisfactory, since the result might not be sufficiently coherent, clear or comprehensive. Greece considered that the two criteria were not mutually exclusive, nor did they exclude the other practical measures which should be taken promptly, as proposed by the Secretary-General.

28. The principal merit of the draft convention proposed by New Zealand (A/C.6/48/L.2) was that it characterized attacks on United Nations personnel as an international crime, taking other United Nations conventions as precedents, in particular those relating to terrorism. It also preserved the basic principle of "aut dedere aut iudicare".

29. Taking a different conceptual approach, the Ukrainian proposal (A/C.6/48/L.3) encompassed the whole range of questions relating to the status and safety of United Nations personnel. Parts I and II of the draft were particularly interesting, although the relationship between article 5, paragraph 3 (a), and article 7, paragraph 2, required clarification. In part III, the assertion in article 10 to the effect that acts of violence against United Nations personnel would "entail international responsibility" should be further qualified. In that respect, the New Zealand draft was more specific and therefore preferable. In any case, Greece believed that the two drafts should be examined together and that a working group should be set up for that purpose.

30. Mr. BASNET (Nepal) said that his delegation had a direct interest in the debate on the current agenda item, since there had been several Nepalese victims among the casualties as a result of the increasingly frequent attacks on staff engaged in United Nations peace-keeping operations. Recent experience had shown that the methods traditionally used to assign the responsibility for such attacks were not always effective in the type of situations currently requiring United Nations intervention and, as had been seen in Cambodia and Angola, the options available to the international community when confronted with such events were limited.

31. Aware of the situation and the need for the persons responsible for such attacks to be punished, Nepal supported the proposal to draft an international convention on responsibility for attacks on United Nations personnel. Likewise, it endorsed the proposal for the establishment of a working group, which when

(Mr. Basnet, Nepal)

drafting the text should bear in mind the need to avoid any overlapping with the obligations under existing instruments and to protect all staff employed by the Organization. Lastly, Nepal endorsed the proposal to consolidate the texts of the New Zealand draft convention and the Ukrainian draft convention on the status and safety of United Nations personnel, thereby facilitating the task of bringing to justice those responsible for such attacks.

32. Mrs. VALDES (Cuba) said that the subject under discussion was extremely delicate, since it concerned the protection of human life. Her delegation had noted with interest the proposals contained in documents A/C.6/48/L.2 and L.3 but had observed that, although the proposals were similar in intent, they differed in their contents and approach. Moreover, a number of clear trends had emerged in the course of the debate. For example, some delegations were in favour of a convention, while others tended towards a declaration. One delegation had proposed the drafting of a declaration forthwith and the preparation of a binding legal instrument at some future time. Furthermore, while some delegations had indicated that they were in favour of protecting only United Nations staff, others had suggested that the protection should be extended to staff from organizations which carried out similar activities, although not under the auspices of the Organization.

33. The proposals before the Committee raised a number of questions and in certain respects were incomplete. For example, her delegation had some doubts regarding the role assigned to the Security Council in the Ukrainian draft convention and regarding the reference it made to Chapter VII of the Charter, which concerned a very specific situation not necessarily connected with the violation of a convention. Moreover, due account had not been taken of the principle of prior agreement by the parties to a conflict required for carrying out peace-keeping operations, yet the non-observance of that principle might have far-reaching and tragic consequences. Nor had account been taken of the need to decide what would happen when civilian casualties were suffered among the local population as a result of such operations, an aspect which could not be overlooked without sacrificing justice and impartiality.

34. In view of those and other discrepancies and problems, before it started the codification process, the Committee should endeavour to reach agreement on the approach that should be followed in order to achieve the desired objective. Consequently, at the present juncture it would be more appropriate for the General Assembly to adopt a resolution requesting the Secretary-General to elicit the views of Member States on the matter and for the Committee to postpone the establishment of a working group until the following session. The group would then have a clear and well-defined mandate, which would facilitate its work.

35. If, however, it was decided to set up the proposed group at the current session, her delegation would prefer it to be open-ended, since that would allow for the adoption of a document which would be generally acceptable, thereby guaranteeing its swift and effective implementation.

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36. Mr. POLITI (Italy) said that the two draft conventions before the Committee were intended to enhance the safety of staff engaged in some of the peace-keeping operations, where recent developments had increased the risks involved to such an extent that one staff member was dying every two weeks, as indicated in document A/48/349.

37. With more than 3,000 troops deployed in a total of eight peace-keeping missions, Italy welcomed the decision to take up the matter. It appreciated the New Zealand proposal, which highlighted various important aspects of the problem, including that of individual responsibility, and was a good starting-point for future work, particularly in view of the need to remedy the shortcomings of international law in that area. Naturally, such an exercise should not prevent those concerned from having recourse to instruments such as the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons and the International Convention against the Taking of Hostages. None the less, it had to be admitted that in many cases those instruments could be ineffective, as in the case of peace-keeping missions to countries where the Government was not in a position to protect United Nations personnel or to ensure that those responsible for attacks on them were punished.

38. Lastly, his country supported the proposal to establish a working group to consider the matter. In his opinion, it should concentrate on three questions, namely what personnel were entitled to protection under the draft convention, the definition of the crimes the convention would cover and the relationship between it and a possible international criminal court.

39. Mr. HAHM (Republic of Korea) said that his country attached great importance to the role of the United Nations in the maintenance of international peace and security. For that reason it supported the strengthening and expansion of peace-keeping operations, to which it contributed troops. It therefore viewed with deep concern the newly emerging threats to the civilian and military personnel in those operations, since such threats could seriously undermine the Organization's capacity to carry out its functions. In that regard he recalled that, as the Minister of Foreign Affairs of his country had stated in his statement to the General Assembly, effective arrangements needed to be worked out to enhance the safety of those involved in United Nations peace-keeping operations.

40. His country therefore supported the proposals in the Secretary-General's report (A/48/349) and believed that the time had come for the Sixth Committee to consider the legal aspects of the problem, which was important. He consequently supported the proposal that a working group should be established immediately to examine the draft conventions submitted by the delegations of New Zealand and Ukraine, which in his view represented a good starting-point for tackling the problem.

41. Mr. ORDZHONIKIDZE (Russian Federation) said that experience had shown that peace-keeping operations were among the most effective ways of resolving ethnic, religious, territorial and other conflicts, such as those which had broken out since the end of the cold war. That explained the constant increase in the personnel assigned to such operations, currently amounting to over 75,000 people.

(Mr. Ordzhonikidze, Russian Federation)

42. That increase had unfortunately been accompanied by a significant rise in the number of people who had lost their lives in carrying out peace-keeping functions. Between 1 January and 12 October 1993 alone, United Nations forces had suffered 170 casualties. In such circumstances the need to ensure the safety of United Nations personnel had become an urgent problem. His delegation therefore welcomed the timely initiative of the delegations of New Zealand and Ukraine in presenting their two draft conventions on the question of responsibility for attacks on United Nations personnel and shared the opinion expressed in document A/48/349 that any future instrument should be elaborated in stages. The first step in that direction should be to prepare a declaration of principles which contained general guidelines on measures to be adopted to ensure the safety of United Nations personnel and established the legal basis for a set of possible rules imposing responsibility on States and on individuals and legal entities.

43. His delegation supported the proposal that a working group should be established as soon as possible to examine the draft conventions submitted by New Zealand and Ukraine. Although the drafts represented a good starting-point for the elaboration of a standard instrument in that field, however, they did not altogether meet his country's concerns in that regard and did not touch on certain important aspects of the problem, which meant that further comment was needed.

44. First, careful consideration should be given to the possibility of having the future instrument ensure the safety of not only the military, police and civilian members of the peace-keeping operations, but also the personnel of non-governmental organizations and humanitarian aid programmes. Secondly, since in practice it was very difficult to make a distinction between traditional peace-keeping operations and those which came under Chapter VII of the Charter, his country believed that when the time came the relevant safety measures should not be determined on the basis of that distinction, but on the way the situation developed in areas of conflict.

45. Lastly, in view of the nature of the current conflicts, it would be appropriate to consider the possibility of elaborating an instrument which would be binding not only on States, but also on all parties to a conflict, and of incorporating standards of conduct to be observed by peace-keeping personnel. Particular consideration should be given to the possibility of regulating the use of firearms by such personnel, especially in cases of self-defence and persistent violation of Security Council resolutions or non-compliance with them by one or more parties to a conflict.

46. Mr. MONTES DE OCA (Mexico) said that two precedents in support of producing a draft convention had been cited, namely the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents and the International Convention against the Taking of Hostages, to both of which Mexico was a party. The work of the Sixth Committee was clear in both instruments and his country considered it appropriate that an open-ended working group should be established which would consider all the features of the drafts submitted by New Zealand and Ukraine.

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47. Mr. OBEIDAT (Jordan) said that the question under consideration had been included in the agenda of the Sixth Committee at an appropriate time, given the increasing number of peace-keeping operations undertaken by the United Nations, the greater role it was playing in that sphere and the rise in the number of attacks against its personnel. The increase in such attacks imposed the need for a general framework to protect United Nations personnel from attack and to bring those responsible to justice, especially when there was no established authority or when those in authority were incapable of imposing respect for order. In those circumstances there was a clear need for a legal instrument which dealt with the matter appropriately.

48. The drafts submitted by New Zealand and Ukraine both supported the notion that such an instrument could take the form of an international convention. Questions did arise, however, regarding its nature, its relationship with other international instruments such as the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, the International Convention against the Taking of Hostages, the agreements on the status of United Nations peace-keeping forces and the Geneva Conventions and their additional Protocols, and regarding the nature of such an instrument in relation to those not party to it. In his country's opinion, the convention would not be binding on them. It would also have to be determined whether the convention would apply to all United Nations operations and whom it would protect. Jordan believed that it should apply primarily to officials of the United Nations and the specialized agencies, in accordance with agreements concluded with the host country. Secondly, it should also apply to aid personnel and members of humanitarian non-governmental organizations, but only if the relevant agreement with the United Nations had been signed. Lastly, it should be noted that the correct application of the convention and the arrest, investigation and prosecution of those responsible for such attacks raised other specific questions, especially in cases where no authorities existed or where existing authorities were incapable of maintaining order.

49. The two drafts represented a good basis for consideration of the matter. The protection of peace-keepers was an obligation incumbent on all countries which was very insignificant compared with the personal sacrifice of the individuals concerned. His country declared its confidence in them and in the United Nations commitment to peace-keeping. It adhered to the agreements that had been concluded on the matter and offered its fullest cooperation within the framework of a working group.

50. Mr. MADEJ (Poland) said that, bearing in mind the alarming number of casualties among both military and civilian United Nations peace-keeping personnel, and as a State which contributed troops to those operations, Poland welcomed the draft conventions introduced by New Zealand and Ukraine and considered that the two proposals constituted a clear basis for further work in the Sixth Committee on all legal aspects of the problem.

51. Enhancing the security of the United Nations forces and personnel involved in peace-keeping and other operations was a matter of urgency which required immediate action. The provisions of international law relating to the protection of such personnel should be no less effective than those relating to participants in armed conflicts. Countries in which United Nations peace-keeping operations were deployed were obliged to take all necessary measures to

(Mr. Madej, Poland)

ensure the safety of the personnel involved in those operations, but sometimes were not in a position to do so. Such situations required that other possible alternatives be considered, including action by the Security Council.

52. Poland intended to participate actively in all efforts aimed at enhancing the security of United Nations operations and their personnel and elaborating a universally binding international instrument in that field. To that end, it supported the proposal for the establishment of a working group on the item.

53. Mr. CHATURVEDI (India) said that, in view of the increase in United Nations peace-keeping activities around the world and the growing casualties among the participants in those operations, the issue of the safety of peace-keeping personnel was of particular interest to India, which had contributed troops to peace-keeping operations in various countries.

54. In his report (A/48/349), the Secretary-General described the existing arrangements for the protection of United Nations forces assigned to serve in a peace-keeping operation and referred to the model status-of-forces agreement governing personnel assigned to such operations. That model agreement contained all the principles of international law which were applicable to United Nations peace-keeping operations. For its part, the Security Council had adopted by consensus resolution 868 (1993), which contained several useful recommendations, including the recommendation that an agreement on the status of the operation in the host country should be negotiated expeditiously and should come into force as near as possible to the outset of the operation. India agreed with those recommendations.

55. With regard to the draft conventions proposed by the delegations of New Zealand and Ukraine, India was of the view that, while the objective of the two drafts was the same, they differed in approach. The draft of New Zealand was mainly concerned with the problem of prosecution and punishment of persons responsible for attacks against United Nations and associated personnel, while the Ukrainian proposal was for a convention in a broader context, since the question of the responsibility of offenders included other difficult and controversial issues, such as the questions of individual responsibility for attacks on United Nations personnel, establishment of jurisdiction and extradition of alleged offenders. Another important issue which needed consideration was the precise scope of the draft convention, namely, whether it should be confined only to the personnel engaged in United Nations peace-keeping operations or should also include every other individual who was somehow connected with the operations. In his delegation's view, it would be better if the first solution were chosen initially, since that would lead to the early conclusion of the convention and would facilitate its subsequent ratification by States.

56. Moreover, the Committee should not overlook the principle of State sovereignty and the question of the privileges and immunities of the personnel concerned. United Nations peace-keeping operations should therefore be established only with the consent of the State concerned. Cases such as that of Somalia were exceptions and must remain so. United Nations and associated

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(Mr. Chaturvedi, India)

personnel who were deployed in a country should respect the laws and regulations of the host country. Similarly, both the parties to a conflict and United Nations and associated personnel should respect the rules of international humanitarian law.

57. India, needless to say, joined those delegations which had spoken on the item in condemning the attacks on United Nations and associated personnel deployed in peace-keeping operations and supported the view that those responsible should be adequately punished, generally in accordance with the domestic law of the State concerned. Where that was not possible, the State concerned must cooperate with other States in the arrest, prosecution and extradition of the individuals concerned.

58. In conclusion, and in view of the complexity of the matter, India supported the idea of establishing a working group to deal adequately with the legal and political considerations involved and to draft a convention on the subject.

59. Mr. MWANGI (Kenya) said that recent tragic events in Somalia and elsewhere had brought into focus the question of responsibility for attacks on United Nations and associated peace-keeping personnel, a matter which had already been touched upon in a report of the Secretary-General (A/48/349). That report had underscored the inadequacies of existing arrangements for the protection of United Nations personnel, the need to give such personnel maximum protection and the imperative necessity to develop realistic and effective measures to deal with the dangers that faced United Nations personnel. In that regard, the inclusion of the item in the agenda of the General Assembly and the draft conventions introduced by New Zealand and Ukraine were very timely. Although different in their approach, those proposals provided a sound basis for the Committee's work.

60. The proposal of New Zealand placed the primary responsibility for the safety of United Nations personnel on the States parties to the instrument. However, in addition to every Government's normal responsibility to maintain order and protect persons and property within their jurisdiction, the proposal extended jurisdiction over trial and punishment for alleged crimes committed against United Nations personnel beyond the territory of the State in whose territory the crime had been committed. Such situations were already covered by the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. The problem of responsibility for attacks arose where government authority was not adequately exercised or where it was lacking altogether. Being able to ascertain and place individual responsibility for crimes committed against United Nations personnel was crucial for determining which measures should be adopted later, particularly in the extremely hazardous conditions of new United Nations operations.

61. An important element of the arrangements for the protection of United Nations peace-keeping forces and personnel was the model status-of-forces agreement between the United Nations and host countries, produced by the Secretariat (A/45/594, annex), which defined the status, privileges and immunities of United Nations forces, and which embodied the relevant principles

(Mr. Mwangi, Kenya)

of international law and practices applicable to United Nations peace-keeping operations. It was relevant to note that under such agreements, the Government of a country hosting a peace-keeping operation undertook to respect the exclusively international nature of the operation and to ensure the prosecution of persons subject to its criminal jurisdiction who were accused of acts against United Nations peace-keeping personnel. Such a measure strengthened the protection of United Nations personnel and reinforced the status and authority of the Organization. In conclusion, Kenya considered that the scope of the draft instrument should be extended to cover persons deployed by any United Nations organization in the course of a peace-keeping operation, and also personnel of any humanitarian organization or agency acting in the context of a United Nations operation pursuant to an agreement with the Secretary-General.

62. Mr. MARTENS (Germany) said that United Nations peace-keeping activities had increased and broadened dramatically in recent years. The death toll of the personnel involved had also increased: in 1993 more than 170 military personnel, including a German national, had been killed in peace-keeping operations.

63. Since in a growing number of cases neither the host country nor the parties to the conflict had the ability or the will to protect United Nations personnel, there was a manifest need to take all the necessary political and legal steps to ensure the safety of persons acting in the cause of peace on behalf of the international community.

64. The German delegation therefore supported the position taken by the Secretary-General in his report (A/48/349) advocating action by the Security Council, the General Assembly and the Secretary-General himself. The proposal for a convention providing for personal criminal responsibility for attacks against United Nations personnel was an important initiative, and Germany supported the New Zealand proposal that the drafting models should be the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and the 1979 International Convention against the Taking of Hostages.

65. The New Zealand draft convention confirmed the obligation of all States to prevent attacks against United Nations personnel in their territory but it also established the personal responsibility of the perpetrators by making such acts crimes punishable under the national laws of States parties. That was especially important when the United Nations was operating in areas of the world where there was no effective authority to guarantee that the perpetrators were actually punished. The draft convention would fill a legal vacuum, and Germany agreed that a working group should be set up to consider its text.

66. Germany attached great importance to certain questions such as the definition contained in article 5 of the New Zealand draft text (A/C.6/48/L.2) entitled "Crimes against United Nations personnel", and to the list of protected persons contained in article 2. The effective application of an international legal instrument to combat attacks on United Nations personnel depended to a large extent on the careful drafting and fine-tuning of those articles. The same held true with regard to the prosecution of perpetrators. In that

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(Mr. Martens, Germany)

connection it was essential to determine who was to undertake the prosecution once the conflict had come to an end or when the United Nations peace-keeping forces were engaged in areas ravaged by civil war. The soldiers in the United Nations peace-keeping operations who had been awarded the Nobel Peace Prize in 1988 deserved effective measures to ensure their safety.

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67. The CHAIRMAN declared the consideration of item 152 concluded. During the debate many speakers had referred to two aspects of the item, i.e. its importance and the need to entrust to a working group of the Committee the task of laying the foundations for future work on the item. If there was no objection, she would take it that the Committee agreed to establish a working group, which would be able to hold only a limited number of meetings during the current session, subject to the availability of conference services.

68. Mr. BISSEMBER (Guyana) said that he was not against the idea of setting up a working group but some points had to be made clear: for example, whether the working group would consider in parallel the draft conventions proposed by New Zealand and by Ukraine or whether the two texts would be merged. As for the scheduling of meetings, it might be better for the working group to meet between sessions.

69. The CHAIRMAN said that it would be for the working group itself to decide on its procedures. In any event, it would have very little time to meet.

70. Mr. ORDZHONIKIDZE (Russian Federation) asked how the chairmanship of the group would be decided and whether, in view of the time pressure, consultations might be held on the point.

71. The CHAIRMAN said that the first thing was to decide to establish the working group; the question of its chairmanship could be taken up immediately afterwards. If there were no more speakers, she would take it that the Committee wished to establish the working group.

72. It was so decided.

73. Mr. NEUHAUS (Australia) said that consultations had been held with delegations and, in accordance with their wishes, he proposed that the working group should be chaired by the representative of Canada, Mr. Kirsch. Mr. Kirsch was extremely well qualified for the job and would ensure the success of the working group's deliberations.

74. Mr. KIRSCH (Canada) thanked the Committee for the confidence placed in him and the representative of Australia for his kind words. He would do everything he could to ensure that the work was brought to a happy conclusion. As for the organization of work, time was extremely limited and he would have to explore the possibility of holding meetings additional to the ones planned. In any event, the important thing was to decide what could be done in such a short time; above all, what type of instrument was to be adopted. Then, some delegations wanted to make more detailed comments on the two draft texts. And

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(Mr. Kirsch, Canada)

lastly, but equally important, the number of meetings available was clearly too few for the drafting of a legal instrument, and a decision must therefore be taken as to what would be done after the end of the session.

75. Mr. MOHAMMED (Nigeria) said that the first meeting planned by the working group coincided with another meeting and that a way would have to be found to solve that problem.

76. Mr. ROSENSTOCK (United States of America) said that the schedule could no doubt be adjusted so that the meetings could take place consecutively instead of simultaneously and he suggested a way of achieving that.

77. Mr. TICHY (Austria) thanked the United States delegation for its suggestion.

78. The CHAIRMAN said that interested delegations should decide among themselves the scheduling of the meetings of the working group. The Secretariat would try to meet the servicing needs.

The meeting rose at 12.25 p.m.